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Personnel



TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENTS

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This Air Force Instruction (AFI) implements policy, assigns responsibilities, and establishes administrative and management guidelines for transitional compensation for abused dependents and provides instructions for processing claims. It implements Air Force Policy Directive 36-30, *Military Entitlements*, and Department of Defense Instruction 1342.24, *Transitional Compensation for Abused Dependents*. This instruction requires maintaining information protected by the Privacy Act of 1974, as authorized by Title 37, United States Code (U.S.C.), 401 and U.S.C., 1072. System of Records Notice F177 AFAFC K, *Pay and Allotment Records*, applies.

1. Applicability and Scope. This instruction applies to:

- Dependents of members of the Armed Forces who have been on active duty for more than 30 days and who on or after November 30, 1993:
 - Separated from active duty under a court-martial sentence resulting from a dependent-abuse offense.
 - Administratively separated from active duty if the basis for separation includes a dependent-abuse offense; or
 - Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

2. Definitions:

- Dependent-Abuse Offenses. An offense by a military member on active duty for more than 30 days involving abuse against the person of the then-current spouse or a dependent child of the member. This is a criminal offense as defined by Title 10, U.S.C., Sections 801-940 or other criminal code and is applicable to the jurisdiction where the act of abuse is committed. Examples include crimes such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter.
- Dependent Child. An unmarried child, including an adopted child or a stepchild, who was residing with the military member at the time of the abuse offense, and who is:
 - Under 18 years of age.
 - Eighteen years of age or older and is incapable of self-support due to a mental or physical incapacity that existed before the age of 18; and who is currently dependent on the member for over one-half of the child's support; or dependent on the member for over one-half of the child's support when a punitive or other adverse action was carried out on the member; or
 - Eighteen years of age or older, but less than 23 years of age; is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense; and who is currently dependent on the member for over one-half of the child's support; or dependent on the member for over one-half of the child's support when a punitive or other adverse action was carried out on the member.
- Member. The term "member" includes "former member" where appropriate.
- Spouse. The term "spouse" means a dependent spouse and where appropriate, includes "former spouse".

3. Policy. It is DoD policy to provide monthly transitional compensation payments and other benefits described herein for dependents of members who are separated for dependent abuse.

4. Procedures:

4.1. Recipients of Payments. Payments will be made to eligible dependents as follows:

- If the member was married when the offense occurred, payment will be made to that spouse.
- If the spouse is ineligible under paragraph 4.5 to receive payment because of remarriage, cohabitation, or active participation, payments will be made to each dependent child of the member not residing in the household of the member or the spouse.
- If there is no eligible spouse for reasons other than those listed in the paragraph above (i.e., the member had no dependent spouse or spouse has died), payments will be made to the dependent children of the member who do not reside in the household of the member.
- Status as a "dependent child" is determined as of the date on which the member is convicted of the offense or as of the date of the member's administrative separation, whichever is applicable.
- If a recipient is incapable of handling his or her affairs, payment may be made only to a court-appointed guardian. For a dependent child under 18 years of age, payments will be made only to a court-appointed guardian or a natural parent (who is not a spouse of the member), if the natural parent has legal custody.

4.2. Payment Commencement and Duration

- Payment commences on the date the person acting under Title 10, U.S.C., Section 860(c) approves the court-martial sentence that includes a dismissal, dishonorable discharge, or bad conduct discharge; or the member's commander starts administrative separation action. The duration of payments will be 36 months except, if as of the starting date of payment, the unserved portion of the member's obligated active duty service is less than 36 months, the duration of payment will be the greater of the unserved portion or 12 months.
- No payment will be made for any period before 1 December 1993.

4.3. Payment Amount

- Monthly payments to a spouse will be at the rate in effect for the payment of dependency and indemnity compensation under Title 38, U.S.C., Section 1311(a)(1). If the spouse has custody of a dependent child(ren) of the member, the amount of monthly compensation to the spouse will increase for each child by the amount in effect under Title 38, U.S.C., Section 1311(b). If there is no eligible spouse, compensation paid to a dependent child or children will be paid in equal shares at the rate in effect under Title 38, U.S.C., Section 1313.
- Payments will be prorated for months when payments start or stop in the middle of a month.
- For children, if the payment amount does not divide evenly, the youngest child will get the odd cent.
- If the recipient dies, arrears will not be paid.

4.4. Cessation of Payments

- Payment will stop effective the 1st day of the 1st month following the month in which the recipient is notified in writing that payment will cease for the following reasons:
 - The member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, or bad conduct discharge as a result of a conviction for a dependent-abuse offense and the punishment is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment.
 - The administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority.
 - The recipient will not be required to repay transitional compensation received before the cessation effective date determined except as necessary to recoup any amount that was erroneous when paid.

4.5. Forfeiture Provisions

- Remarriage. If a spouse receiving payments remarries, payments terminate on the date of remarriage. Payments will not be restarted if the remarriage is terminated. If payments to the spouse terminate due to remarriage and there is a dependent child not living in the same household as the spouse or member, payments will be made to the dependent child.
- Cohabitation. If the member lives in the same house as the spouse or dependent child to whom compensation is payable under this instruction, payment will terminate on the date the member begins living in the household. Once terminated, payments will not be resumed. Compensation paid before the member resides in the household will not be recouped.
- Active Participant. If the victim was a dependent child, and the Installation Commander finds the spouse actively participated in the conduct constituting the criminal offense or actively aided or abetted the member in such conduct against the dependent child, the spouse, or dependent child living with the spouse, will not be paid transitional compensation.

- Annual Certification. The spouse must notify DFAS within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse or dependent child.
- The spouse (or other individual receiving compensation payments) will annually certify to Defense Finance and Accounting Service (DFAS) on a Certificate of Eligibility (COE) that he or she has not remarried and has not been cohabiting with the member.
- Dependent children (or the individual receiving payments) will annually certify via the COE process that they are not cohabiting with the member or ineligible spouse.

4.6. Coordination of Benefits . A spouse may not receive payments under both sections 1059 and 1408(h) of Title 10, U.S.C. If a spouse is otherwise eligible for both, the spouse must elect which to receive.

4.7. Source of Funds . Transitional compensation will be paid from a centralized Air Force fund.

4.8. ID Cards. Issue an identification card with authorized benefits in accordance with AFI 36-3001, *Issuing and Controlling Identification Cards*, paragraph 2.35.

- Commissary and Exchange Benefits:
 - Recipients are entitled to use commissary and exchange stores while receiving transition compensation payments, the same as dependents of members on active duty for a period of more than 30 days.
 - If a recipient eligible to use the commissary and exchange stores per the above paragraph in this instruction, is also eligible under another law, eligibility and entitlement will be determined under the other law and not this instruction. Refer to AFI 36-3001, paragraph 2.35.

4.9. Medical Benefits . Medical benefits are not included in the identification card; however, a dependent of a member who has been separated due to a dependent-abuse offense may receive medical or dental care in a Medical Treatment Facility (MTF) or through the Civilian Health and Medical Program (CHAMPUS). Receipt of the medical or dental care is subject to the following:

- Eligible dependents of a member who receives a dishonorable or bad-conduct discharge is dismissed or is administratively separated as a result of a court-martial conviction for a dependent-abuse offense are entitled to medical or dental care for problems associated with the abuse. Entitlement to such care is limited to a period of 1 year following the member's separation. Eligibility will be granted only upon request to the Secretary of the Air Force (AFI 41-115, *Authorized Health Care and Health Care Benefits in the Military Health Services Systems*). The Secretary of the Air Force will make the determination of whether an offense involved abuse of a dependent.
- Eligible dependents of a member who is retirement eligible may receive medical and dental care under 10, U.S.C., Section 1408[h] (Reference [b]).
- Refer applicants for medical or dental benefits to the local MTF for additional information and guidance.

5. Responsibilities:

- Major Commands, Functional Operating Agencies, and Direct Reporting Units:
 - Monitor and guide subordinate units. They may refer problems or questions to HQ AFPC/DPSFC, 550 C Street West, Suite 37, Randolph AFB TX 78150-4739.
- Installation Commanders:
 - Develop and coordinate responses to high-level and congressional inquiries. Assess cases or requests and render decisions based on the case's merits.
 - Determine whether the spouse was an active participant or actively aided or abetted the member in abuse against the dependent child. Ensure the spouse is notified in writing that the evidence shows his or her active participation or aiding or abetting, and that he or she has 10 calendar days from the mailing of such notice to respond in writing. If the 10-day suspense is met, the response will be considered in determining whether transitional compensation will be approved.
 - Approve requests for transitional compensation by completing Item 22 of the DD Form 2698, **Application for Transitional Compensation**, and return the case file to the MPF for disposition.
 - May delegate the above duties to group commanders.
- Unit Commanders:
 - Ensure affected family members are informed of the program and assistance is available.
 - Assist family members with the application process and ensure the DD Form 2698 is completed. Coordinate actions with the Staff Judge Advocates (SJA) and MPF.
- MPF Chiefs:
 - Assign an element in the MPF to administer the program. Provide point of contact information (i.e., office symbol, duty phone, and FAX number) to HQ AFPC/DPSFC, 550 C Street West, Suite 37, Randolph AFB TX 78150-4739. Update POC information as needed.
 - Ensure the DD Form 2698 is completed and that the applicant has signed and dated items 12a and b. Ensure there

is no fund cite in Item 24 (DFAS inserts the fund cite) and then MPF Chief signs the form in Item 25.

- Coordinate the collection of information to determine the validity of the claim, authorized recipients, and the duration of the payments, and consult with SJAs (see paragraph 6) and unit commanders for information.

6. Staff Judge Advocates:

- Assist MPF representative in gathering data required to complete the DD Form 2698. SJAs should consult with SJAs where the separation or court-martial occurred if additional information is needed on the member.
- Review claims (DD Form 2698) for legal sufficiency and provide written legal reviews to installation commanders.

7. Use this AFI in conjunction with DoDI 1342.24, *Transitional Compensation for Abused Dependents*.

8. DD Form 2698 Clarification:

- Definition of Obligated Active Duty Service (OADS) (Item 19):
 - For enlisted members: Is the time remaining on their terms of enlistment (Item 19b, DD Form 2698) (e.g., Member enlisted or reenlisted last on 10 December 1995 for 4 years--OADS on Item 19b, DD Form 2698, would be 9 December 1999.)
 - For officers: Is indefinite (or none) unless there is a date of separation established; then it will be the time remaining until separation (Item 19c, DD Form 2698).
 - Contact HQ AFPC/DPSFC at DSN 487-3415 or FAX: 487-5982 if unable to obtain data in this area.
- Date of Approval of the Court-martial Sentence or Administrative Separation (Item 20):
 - Verify data with SJA
 - This is the date the convening authority approved the sentence or separation action. This date will be different from the date the convening authority ordered the execution of discharge.
- Payment Dates (Item 21):
 - Subtract date in Item 19b or 19c from the date in Item 20. If less than 36 months, length of payment is that period or 12 months, whichever is greater.
 - No payment will be made for any period before December 1, 1993. (e.g., If Item 19b is 13 May 1994 and Item 20 is 25 August 1992 the applicant would receive 12 months of payments. The start date in Item 21a would be 1 December 1993 and the stop date in Item 21b would be 1 December 1994.) *NOTE:* For this example, 25 August 1992 was the date the convening authority approved the sentence, the execution of discharge was after 30 November 1993.

9. Application Procedures:

- Applicants initiate request for transitional compensation through the MPF. Applicants will provide documents (i.e., DD Form 214, **Certificate of Release or Discharge From Active Duty**, court documents, etc.) to assist in the completion of the DD Form 2698.
- MPF representatives will also coordinate the collection of information necessary to complete the DD Form 2698 with SJAs and commanders.
- All information on the DD Form 2698 except Item 12 is entered by the MPF representative from service records (or as provided by SJA or unit commander).
- The applicant will complete Item 12 of DD Form 2698 and sign and date on Item 12a and 12b.
- MPF Chief will sign and date in Items 25a and 25b and complete Items 25c-25h. *NOTE:* DFAS will complete Item 24--leave blank.
- Coordinate the completed DD Form 2698 with the SJA to determine the validity of the claim, the recipients, and duration of payments. SJA will provide a written legal review for the installation commander.
- Forward all gathered information along with applicant's signed DD Form 2698 to the installation commander (or designee) for final determination after SJA coordination.
- Installation commander will sign and date in Items 22a and 22b and complete Items 22c-22h.
 - Upon approval by the installation commander (or designee) MPF will forward the DD Form 2698 to: DFAS-DE/FRB, 6760 East Irvington Place, Denver CO 80279-6000 for payment. To contact DFAS call DSN: 926-4514 or COMM: (303) 676-4514. FAX: 926-4667, COMM FAX: (303) 676-4667.
 - Send a courtesy copy of the approved application (DD Form 2698) to AF/DPPC, 1040 Air Force Pentagon, Washington D.C. 20330-1040. (DSN FAX: 227-8453)
 - Send a courtesy copy of the approved application (DD Form 2698) to AFPC/DPSFC, 550 C Street West, Suite 37, Randolph AFB TX 78150-4739. DSN: 487-3415 or FAX: 487-5982.
 - The MPF will maintain a file copy of the approved application (DD Form 2698) and provide a copy to the

applicant.

10. Form Prescribed . DD Form 2698, Application for Transitional Compensation.

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DCS/Personnel